

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

APRIL LYNNE ACKER
TX-1334010-L

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DOCKETED COMPLAINT NO.
12-162

AGREED FINAL ORDER

On the 17th day of August, 2012, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the expired license of April Lynne Acker (the "Respondent").

In order to conclude this matter, April Lynne Acker neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent James April Lynne Acker is and was a Texas state licensed real estate appraiser who held and currently holds license number TX-1334010-L, and was licensed by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at: 1603 Williams Drive, Georgetown, Texas ("the property") on or about August 2nd, 2011.
3. Thereafter a complaint was filed with the Board. The complaint alleged that the Respondent produced appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board, in accordance with the mandate of the Administrative Procedure Act (the "APA"), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103 (the "Act"), notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board. Respondent's response was received.
5. Respondent has been sanctioned by the Board on two prior occasions (on August 21st, 2009 and February 9th, 2007) via consent orders.
6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to

USPAP in effect at the time of the appraisal report for the property:

7. Specifically, Respondent's USPAP violations with respect to the property include:
 - a) USPAP Ethics Rule (Record Keeping) – Respondent failed to comply with the record keeping requirements because she failed to maintain a work file containing all data, information, and documentation necessary to support the appraiser's opinions, analyses and conclusions;
 - b) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to determine and perform the scope of work necessary to develop credible assignment results and did not identify the problem to be solved and her scope of work;
 - c) USPAP Standards 1-3(a) & 2-2(b)(viii); 1-1(b) – Respondent failed to identify and analyze factors affecting marketability (such as economic supply and demand and market area trends);
 - d) USPAP Standards 1-3(b) & 2-2(b)(ix) – Respondent failed to provide an analysis and summarize the rationale underlying her determination of the property's highest and best use; and,
 - e) USPAP Standards 1-5(b) & 2-2(b)(viii) – Respondent failed to disclose and analyze a sale of the property which occurred within the 3 years prior to the effective date of her appraisal; and,
 - f) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – Respondent's appraisal report contained several substantial errors of omission or commission as detailed above which impacted the credibility of the assignment results.
8. Respondent omitted material facts and made material misrepresentations as described in more detail above.
9. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by making material misrepresentations and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have her license suspended for 6 months, with the suspension fully probated under the condition that she fully and timely comply with all the terms, deadlines and requirements contained in this agreed final order;
- b. Within 90 days of the effective date of this order (i.e. on or before November 15th, 2012), Respondent shall complete a total of fifteen (15) hours of in-person mentorship conducted by a certified USPAP instructor approved by the Board. The total fifteen (15) hours of mentorship shall be completed in three (3) separate, five (5) hour segments. The hours of mentorship must be completed under the following schedule:
 - i. The first 5 hours of mentorship must be completed within 30 days of the effective date of this order (i.e. on or before September 17th, 2012);
 - ii. The second 5 hours of mentorship must be completed within 60 days of the effective date of this order (i.e. on or before October 16th, 2012);
 - iii. The final 5 hours of mentorship must be completed within 90 days of the effective date of this order (i.e. on or before November 15th, 2012); and,

Upon completion of each of the five (5) hour mentorship segments, Respondent shall submit to the Board within seven (7) days, on a form provided by the Board, a signed, notarized affidavit attested by the certified USPAP instructor confirming completion of the mentorship hours.

- c. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
- d. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Respondent is solely responsible for locating and scheduling classes and any required mentorship to timely satisfy the terms of this agreement and is urged to do so well in advance of any compliance deadlines to ensure adequate time for completion of the courses in the event of course cancellation or rescheduling by the course provider or mentor.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in IMMEDIATE REVOCATION OF RESPONDENT'S PROBATION AND IMPOSITION OF THE REMAINING PERIOD OF SUSPENSION of the Respondent's

certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect for the remainder of the of the probated suspension period and until such time as Respondent complies with the terms of this order and provides adequate documentation of same to the Board.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCULDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS OR AFFIDAVITS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

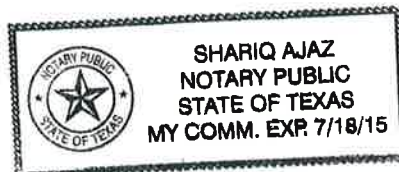
Signed this 15th day of June, 2012.

April Lynne Acker
APRIL LYNNE ACKER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 15th day of June, 2012, by APRIL LYNNE ACKER, to certify which, witness my hand and official seal.

Shariq Ajaz
Notary Public Signature

Shariq Ajaz
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 17th day of AUGUST, 2012.

Troy Beaulieu
Troy Beaulieu, TALCB Managing Attorney

Signed by the Commissioner this 17th day of August, 2012.

Douglas Oldmixon
Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 17th day of August, 2012.

Luis De La Garza
Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board